

MEMORANDUM OF UNDERSTANDING

BETWEEN THE

INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 39

AND

THE CITY OF LINCOLN

COVERING ALL EMPLOYEES IN THE

CLASSIFIED GROUP

TERM OF AGREEMENT:
July 1, 2018 through June 30, 2021



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PREAMBLE

This Memorandum of Understanding (MOU), hereinafter sometimes referred to as the Agreement, entered into by and between the City of Lincoln, hereinafter sometimes referred to as the City, and the International Union of Operating Engineers, Stationary Local 39, AFL-CIO, hereinafter referred to as the Union, on behalf of the Classified Employee Group (bargaining unit), has as its purpose the establishment of an equitable and peaceful procedure for the resolution of differences and the establishment of rates and pay, hours of work and other conditions of employment for employees in the Classified Group, as provided in this Agreement.

1. ARTICLE I – RECOGNITION AND COVERAGE

1.1. RECOGNITION

The City recognizes the Union as the exclusive representative of those employees within the bargaining unit for the purpose of meeting and conferring in good faith on matters within the mandatory scope of representation, pursuant to California Government Code 3500 et seq.

1.2. COVERAGE OF EMPLOYEES

The following classifications are agreed between the parties to be in the bargaining unit:

- Airport Maintenance Worker I
- Airport Maintenance Worker II
- Equipment Mechanic I
- Equipment Mechanic II
- Maintenance Worker I
- Maintenance Worker II
- Mechanic Helper
- Meter Reader
- Refuse Truck Driver II
- Senior Airport Maintenance Worker
- Senior Equipment Mechanic
- Senior Maintenance Worker
- Senior Refuse Truck Driver
- Senior Transit Driver
- Senior Water Technician
- Transit Operator
- Wastewater Mechanical Maintenance Tech I
- Wastewater Mechanical Maintenance Tech II
- Wastewater Plant Operator I
- Wastewater Plant Operator II
- Wastewater System Technician I

- Wastewater System Technician II
- Wastewater Treatment Plant Lab Analyst
- Water Technician I
- Water Technician II

1.3. TERM OF AGREEMENT

This Memorandum of Understanding shall be effective July 1, 2018 and shall expire June 30, 2021 and shall continue in effect from year to year thereafter unless terminated or modified as provided herein.

2. ARTICLE 2 – UNION RIGHTS

2.1. ACCESS TO EMPLOYEE WORK LOCATIONS

Representatives of the Union shall have the right of reasonable access to bargaining unit members outside of their assigned duties; before and after work hours, at meal and break periods; and all other non-work times with the approval of the City Manager or his designee.

2.2. DISTRIBUTION AND POSTING OF UNION LITERATURE

The Union may use bulletin boards designated for its use in appropriate places. All items to be posted shall be officially authorized by the Union and shall bear the date of posting.

2.3. USE OF CITY FACILITIES

The City Manager or designee, upon request, may permit the Union the use of designated facilities, depending upon availability of space, for meeting purposes. No request for use of City facilities shall be unreasonably denied.

2.4. DISCRIMINATION

The City and the Union agree not to discriminate against any employee for the employees' membership in or activity on behalf of the Union which are authorized and protected by statutory law, Memorandum of Understanding or City code, ordinance or resolution. This includes lawful participation in or refraining from participation in the Union.

3. ARTICLE 3 – MANAGEMENT RIGHTS

3.1. MANAGEMENT RIGHTS

The City retains all rights, powers, duties, responsibilities and authority of a managerial or administrative character, except as specifically modified by the express provisions of this Memorandum. The exclusive rights of the City shall include, but not be limited to, the right to

determine the organization of City government and the purpose and mission of its constituent agencies; to set standards of service to be offered to the public, and through its management officials to exercise control and discretion over its organization and operations; to establish and effect administrative regulations and employment rules and regulations consistent with law and the specific provisions of this Memorandum; to direct its employees; to take disciplinary action; to relieve and lay off employees from duty because of lack of work or for other legitimate reasons, including but not limited to the economic condition of the City; to determine whether goods or services shall be made, purchased or contracted for; to determine the methods, means and personnel by which the City's services are to be provided, including the right to schedule and assign hours of work and overtime, or reduce same; and to otherwise act in the interest of efficient service to the City. The City agrees to meet and confer, upon request of the Union, over the impact to employees of any decision by the City to contract-out significant bargaining unit work to a non-City enterprise or agency. The decision to contract-out such work shall not be subject to meet and confer during the term of this Memorandum.

4. ARTICLE 4 – SALARY ADMINISTRATION

4.1. WAGE INCREASE

During the term of this MOU, salaries shall be increased by the following:

A. Cost of Living Adjustments

- The salaries for the classifications covered by this MOU shall receive a cost of living increase of one and one half percent (1.5%) effective the first full pay period following July 1, 2018.
- The salaries for the classifications covered by this MOU shall receive a cost of living increase of one and one half percent (1.5%) effective the first full pay period following July 1, 2019.
- The salaries for the classifications covered by this MOU shall receive a cost of living increase of one and one half percent (1.5%) effective the first full pay period following July 1, 2020.

B. Market Salary Adjustments

The classifications as listed in Section 1.2 Coverage of Employees shall receive the following market equity adjustments:

- Effective the first full pay period following July 1, 2019, two and three-quarters percent (2.75%).

- Effective the first full pay period following July 1, 2020, two and three-quarters percent (2.75%).

4.2. SALARY RANGES

Salary ranges for all classifications covered by this MOU shall consist of 7 steps with approximately five percent (5%) between each step.

4.3. DEFERRED COMPENSATION

The City agrees to pay the Maintenance Fee up to a maximum of \$30.00 (annually).

4.4. BILINGUAL PAY

The City shall pay \$75.00 per month over the employee's basic rate for bilingual aptitude. Certification of Competency shall be required as established by the City. The City shall determine the appropriate number of employees eligible to receive this compensation.

4.5. CERTIFICATE/LICENSE PAY

Employees shall receive \$75 per month for each approved certification (maximum of 4) as base compensation if the City requires an employee to possess a certificate or license beyond the minimum qualifications required by the City for the employee's job classification. Eligible certificates/licenses are listed in Attachment A. It is the employee's responsibility to maintain certification and notice the City of any loss/interruption of certification.

4.6. RENTAL AND MAINTENANCE OF UNIFORMS

The City shall pay for the rental and maintenance of required shirts for employees in Code Enforcement, Fleet, Streets, Wastewater, Water, Solid Waste, Recreation, Transit, Airport, Parks and Facilities Management, not to exceed \$600 per year per employee. The monetary value of this required clothing for Classic employees is defined as special compensation by CCR 571 and must be reported as special compensation as earned for Classic employees. The annual monetary value of the rental and maintenance of uniforms for Classic employees shall be determined on an annual fiscal year basis through the City's procurement process.

5. ARTICLE 5 – HOURS OF WORK

5.1. GENERAL HOURS OF WORK

The City Manager, upon consultation with affected department heads, shall be responsible for assigning or modifying the work schedules. Unless otherwise prescribed in writing by the City Manager or designee, the work day, work shift, work week, and work schedule for each position shall be as follows:

- A. Workday for full-time positions shall be eight (8) hours except as otherwise approved by the City.
- B. Workweek for full-time positions shall be forty (40) hours except as otherwise approved by the City.
- C. Work schedule for each position shall be as established by the department head, which may change such schedules from time to time based on the needs of departmental operations and approval of the City Manager. A department head, with forty-eight (48) hours prior notice, may require an employee to work an unscheduled day/shift and receive an otherwise scheduled work day/shift off in which case the day/shift worked shall not be considered compensable at the overtime rate of pay. Work schedules shall not be changed simply to avoid the payment of overtime.
- D. Flexible schedules may be approved by the City Manager upon recommendation and justification of the department head.
- E. Employees designated regular, part-time employees shall work a number of hours less than forty (40) hours per work week and shall be eligible for prorated benefits as defined within this MOU.

Regular, part-time employees, who successfully complete the designated probationary period, shall acquire necessary rights of due process.

5.2. REST PERIODS

Employees shall be entitled to two breaks of fifteen minutes each during the work day. The breaks should be, as closely as possible, mid-morning and mid-afternoon.

Rest periods (breaks) are not intended for use in conjunction with the meal period or to be added to the beginning or ending of a workday, unless otherwise approved by the supervisor.

5.3. REST PERIOD BETWEEN WORKDAYS

It is the intent of this Article to provide for and insure a reasonable amount of rest for employees who may be required to work an extraordinary number of overtime hours between workdays or on a continuous emergency work schedule. In such circumstances, the City agrees to the following provisions as a means of assuring adequate rest, and the prevention of fatigue and safety hazards:

1. If an employee has worked for four (4) or more hours during the eight (8) hour period immediately preceding the beginning of his/her regular work shift, he/she is entitled to a four (4) hour rest period upon the completion of such overtime work.
2. If an employee has worked for six (6) or more hours during the twelve (12) hour period immediately preceding the beginning of his/her regular work shift, he/she is entitled to a six (6) hour rest period upon the completion of such overtime work.
3. If an employee has worked for eight (8) or more hours during the sixteen (16) hour period immediately preceding the beginning of his/her regular work shift, he/she is entitled to an eight (8) hour rest period upon the completion of such overtime work.
4. Rest periods are to begin immediately upon employee's release from overtime work and are unpaid; however, if the rest period in whole or in part overlaps the employee's regular work hours he/she will receive pay at the straight time rate for the extent of the overlap.
5. If the rest period overlaps his/her regular work hours but does not extend into the second half of his/her workday, the employee may be excused from reporting for work until the beginning of the second half of his/her workday. Employee, in advance, will notify supervisor if he/she intends to exercise this option. The employee may request vacation or comp time to make up hours.
6. If the rest period extends into the second half of his/her regular day, the employee may be excused from reporting for work until the beginning of the following workday. Employee, in advance, will notify supervisor if he/she intends to exercise this option. The employee may request vacation or comp time to make up hours.

5.4. MEAL PERIODS

Employees who work an (8) hour work day or more may be allowed an unpaid meal period of not less than 30 minutes nor more than 60 minutes which shall be scheduled by the City as near as possible to the middle of the work shift. Meal periods may be briefly interrupted or completely

cancelled if there is an emergency or other operating need. When an employee's meal period is interrupted, the employee's meal period will be proportionately extended. When an employee's meal period is cancelled, the meal period shall be added to the employee's normal work day and the employee shall be paid overtime for the cancelled meal period pursuant to the overtime provisions contained in this memorandum of understanding.

It shall be the responsibility of each employee to be at the work site and prepared to begin work at the conclusion of the meal period.

Meal periods shall not be added to the beginning or ending of the normal workday, but shall be near the middle of the normal workday. Travel to and from a meal location is considered part of the designated, non-compensated meal period.

6. ARTICLE 6 – OVERTIME

6.1. OVERTIME POLICY

It is the policy that overtime work be discouraged; that each department head arrange the work of his or her department so that full-time employees shall normally work not more than eight (8) hours per work day or more than five (5) consecutive work days consisting of forty (40) hours without at least one (1) day off, or more than eighty (80) hours in any pay period, and that overtime work be held to a minimum consistent with the efficient performance of necessary functions.

All work authorized as voluntary overtime shall be calculated at the overtime rate that is one and one-half (1½) times the regular hourly rate of pay. Holidays, , compensatory time off, vacation leave and floating holidays are considered time worked for the purposes of computing overtime.

All work authorized as mandatory overtime shall be calculated at the overtime rate that is one and one-half (1½) times the regular hourly rate of pay. Holidays, sick leave, compensatory time off, vacation leave and floating holidays are considered time worked for the purposes of computing overtime.

Mandatory overtime assignments shall be distributed equally insofar as possible among any qualified career employees in the Classified Unit in accordance with the following: (a) Qualified career employees may submit their names to be placed on a list for mandatory overtime assignments. The list shall be established by seniority based on total City service, with the employee with the most seniority at the top of the list. Opportunities for mandatory overtime assignments shall be offered by the City to the employee at the top of the list. (b) After an employee works a mandatory overtime assignment, the employee's name shall be moved to the bottom of the list. The second employee on the list then becomes the name at the top of the list

and is eligible for the next assignment, and so forth. (c) If an employee is deemed by the City to not be qualified for a particular assignment, the employee will remain at the top of the list and the City will assign the overtime to the first qualified employee on the list. Emergency overtime may be assigned by the City to any employee at any time.

6.2. AUTHORIZATION OF OVERTIME WORK

Overtime work shall be performed only upon express authorization of the department head or designee.

6.3. REPORTING OVERTIME

Total hours of recorded authorized overtime for each pay period for each employee shall be reported on an attendance report and shall be signed by each department head or designee. The total hours of prior accumulated compensatory time taken off during each pay period shall be likewise reported.

6.4. FRINGE BENEFITS NOT AFFECTED BY OVERTIME

Overtime work shall not be a basis for increasing vacation or sick leave benefits, nor shall it be a basis of advancing completion of required periods for probation or salary step advancement.

6.5. COMPENSATION FOR OVERTIME

Compensation for overtime and holidays shall either be paid at the rate of time and one-half or accrued as Compensatory Time Off, as determined by the department head subject to the rule as stated herein.

The employee shall be given the option of paid overtime or Compensatory Time Off. The preference shall be honored unless there is a stated budget or operational need to deny the preference.

Employees may, upon the prior request of the employee and prior authorization of the department head, accumulate Compensatory Time Off in lieu of overtime pay. In no event shall an employee be allowed to accumulate in excess of one hundred (100) hours of Compensatory Time Off.

In the event an employee has accumulated one hundred (100) hours Compensatory Time, payment of overtime in cash shall be automatically made unless mutually agreed otherwise by the City Manager or designee and the employee.

The balance of any accumulated Compensatory Time shall be paid upon termination of employment or under such other circumstances as authorized by the City Manager.

6.6. TWELFTH HOUR COMPENSATION

All authorized work commencing with the twelfth (12th) consecutive hour shall be compensated at a rate of two (2) times the regular hourly rate of pay.

6.7. STANDBY

The department head or designee may place an employee on standby duty as necessary. Standby duty requires an employee so assigned:

1. To be ready to respond immediately to calls from the City and to be called into work;
2. To be reachable by telephone/pager;
3. To remain within a reasonable distance of the work location; and
4. To refrain from activities which might impair their ability to perform any assigned duties.

Employees assigned to standby duty shall receive compensation of \$48.00 per 24 hour of standby duty. For those employees assigned to standby duty on approved holidays shall receive compensation of \$75 per 24 hour (one day) of standby duty.

Employees assigned to standby duty and who are called in to work shall be compensated at the overtime rate pursuant to the applicable provisions of the MOU and City Rules.

6.8. DISTRIBUTION OF SCHEDULED STANDBY AND SCHEDULED OVERTIME ASSIGNMENTS

Scheduled Standby and Scheduled Overtime assignments shall be distributed equally insofar as possible among any qualified career employees in the Classified Unit in accordance with the following:

- A. Qualified career employees may submit their names to be placed on a list for Scheduled Standby or Scheduled Overtime assignments. The list shall be established by seniority based on total City service, with the employee with the most seniority at the top of the list. Opportunities for Scheduled Standby and Scheduled Overtime assignments shall be offered by the City to the employee at the top of the list.
- B. After an employee works a Scheduled Standby or Scheduled Overtime assignment, the employee's name shall be moved to the bottom of the list. The second employee on the list then becomes the name at the top of the list and is eligible for the next assignment, and so forth.
- C. If an employee refuses a Scheduled Standby or Scheduled Overtime assignment, that employee shall be deemed to have worked the assignment and he/she shall be placed at the bottom of the list.
- D. If an employee is deemed by the City to not be qualified for a particular assignment, the employee will remain at the top of the list and the City will continue to offer the assignment to each qualified employee on the list until the first qualified employee accepts the assignment.
- E. If all employees on the list do not accept a Scheduled Standby or Scheduled Overtime assignment, the City may assign any qualified employee to work the Scheduled Standby or Scheduled Overtime assignment by inverse seniority.

Emergency standby and unscheduled overtime may be assigned by the City to any employee at any time.

- F. Those employees called back to work shall first be the employees listed on the standby rosters for the specific period of time. It will be the judgement of the individual calling back the employee(s) to determine the staff needed based on their (staff) areas of expertise given the circumstances.

6.9. CALL BACK TIME

Call Back time shall be that time an employee is called back to work by the department head before or after a normal work day, or when an employee is required to work on a normal day off by the department head in the event of an emergency; or when an employee is required to work on any holiday recognized by the City. The time actually worked or a minimum of two (2) hours at one and one-half (1½) times shall be accrued as Compensatory Time or taken as pay, subject to the same rules for overtime compensation provided above.

6.10. SHIFT CHANGE

An employee's shift shall not be changed solely to avoid overtime. Normally, an employee shall be given at least forty-eight (48) hours' notice of a shift change. In the absence of such notice, the employee shall receive a 5% differential over base salary for each actual work day in which the notice was not given.

7. ARTICLE 7 – LEAVES

7.1. VACATION

Employees within the Classified Group shall be entitled to vacation leave as follows:

- A. No employee shall be entitled to take a vacation leave until such employee has completed six (6) months of service, after which the employee shall be entitled to the use of accrued vacation leave. This article shall be held in abeyance during a City-imposed closure.
- B. No employee shall accrue more than two hundred and forty (240) hours of vacation. If an employee accrues vacation time in excess of two hundred and forty (240) hours, he/she shall have their accrual frozen until he/she falls below two hundred and forty (240) hours. An employee shall be paid for any vacation accrual in excess of the cap in the event the City has denied the use of vacation twice in the preceding 6 months. Proof of vacation denial is required.
- C. Each department head shall arrange the schedule for vacations for employees with the department.
- D. In case of termination or discharge, all employees shall be entitled to pay for all accrued but unused vacation.
- E. No vacation leave shall be granted in increments of less than one (1) hour within any workday.
- F. Employees shall continue to be paid during the period of their vacation at the same rate of compensation in effect at the commencement of the vacation period.
- G. Employees shall accrue vacation leave in accordance with years of service as follows:

0 years – 3 years

10, 8-hour days per year

3 years + 1 day – 5 years	11, 8 hour days per year
5 years + 1 day – 8 years	15, 8 hour days per year
8 years + 1 day – 11 years	16, 8-hour days per year
11 years+1 day – 13 years	17, 8-hour days per year
13 years+1 day – 15 years	18, 8-hour days per year
15 years+1 day – 18 years	19, 8-hour days per year
18 years+1 day and over	26, 8-hour days per year

- H. Employees who work less than full-time, but more than nine-hundred (900) hours per year shall be credited vacation on a prorated basis. The nine-hundred (900) hour minimum need only be reached once during continuous employment (exclusive of any seasonal, temporary or contracted work performed for the City). The maximum accumulation of vacation time for an employee working less than full-time shall be ninety-six (96) hours.
- I. Employees will be required to exhaust all vacation leave balances prior to taking any non-pay time off. An exception to this is when an employee does not request vacation time off properly, in advance, and the reason for the time off is considered an emergency.

7.2. SICK LEAVE

Employees of the City shall be entitled to sick leave with pay as set forth in this Article.

Each employee shall be entitled to one (1) eight (8) hour day sick leave with full pay for each month of full time employment commencing on the first day of the month following the month the employee commenced full-time employment.

Regular part-time employees working in excess of nine hundred (900) hours per year shall be credited with sick leave on a prorated basis. The nine hundred (900) minimum need only be reached once during continuous employment (exclusive of any seasonal, temporary or contracted work performed for the City). The maximum accumulations of sick leave for any employee working less than full-time hours will be one hundred ninety to (192) hours.

Regular part-time employees who work in excess of nine-hundred (900) hours per year shall be credited with sick leave on a prorated basis. The nine-hundred (900) hour minimum need only be reached once during continuous employment (exclusive of any seasonal, temporary or contracted work performed for the City). The maximum accumulation of sick leave for any employee working less than full-time hours will be one hundred ninety two (192) hours.

- A. Sick leave may be applied to:

1. An absence necessitated by the employee's incapacitation from the performance of regular duties due to personal illness, injury or pregnancy.
 2. Medical, optical or dental office appointments.
 3. Absence due to the illness of a family member. Family Member for the purpose of this article is defined as any person related by blood or marriage and includes domestic partners that have been certified with the Secretary of State's office in accordance with AB 26 (Chapter 588, Statutes of 1999).
- B. Employees in good standing whose employment with the City is otherwise terminated shall be paid for unused sick leave in accordance with the following:
1. Employees with five (5) or less years of continuous service shall receive no payment.
 2. Employees with five (5) years of continuous service up to and including twelve (12) years of service shall receive twenty-five percent (25%) of said leave.
 3. Employees in excess of twelve (12) years of service will be paid one hundred percent (100%) of said leave.

Payment for unused sick leave shall be at the salary rate then in effect for the concerned employee.

7.3. BEREAVEMENT LEAVE

A department head or designee may authorize bereavement leave with pay for a regular, full-time City employee due to the death of his/her parent, step parent, spouse, domestic partner, child, grandchild, grandparent, brother, sister, mother-in-law, father-in-law, daughter-in-law, son-in-law, sister-in-law, brother-in-law, step child adopted child, aunt, uncle, or death of any person residing in the immediate household of the employee at the time of death. Such bereavement leave may be authorized for up to 24 hours per occurrence. The employee shall give notice to his/her immediate supervisor as soon as possible and shall, if required by the employee's supervisor, provide substantiation to support the request.

- A. If the death of a person as enumerated above required the employee to travel over four hundred (400) miles one-way from his/her home, upon request, additional time off with pay shall be granted for two (2) additional days which shall be deducted from accrued sick leave. Should additional leave be necessary, the department head or designee may authorize the use of sick leave, CTO, vacation or authorized leave without pay.

- B. Bereavement leave for individuals not listed above may be considered where the employee requests vacation leave or CTO. If vacation leave or CTO is utilized, no proof of death or related information will be required.
- C. Part-time employees will be eligible for bereavement leave on a pro rata basis, based on hours worked.

7.4. JURY LEAVE

When an employee is summoned to jury duty he/she shall immediately inform his/her supervisor and, if required to serve, may be absent from duty with full pay while actively rendering such service. Any jury fees received by an employee shall be remitted to the City, exclusive of any meal and/or travel reimbursements rendered by the courts.

Employees who serve on jury duty for one or more days shall provide to his/her immediate supervisor a court supplied notice of attendance referencing all days of attendance.

7.5. HOLIDAYS

The following days shall be paid holidays for employees in the unit:

- A. New Year's Day
- B. Martin Luther King Jr. Day
- C. President's Day
- D. Memorial Day
- E. Independence Day
- F. Labor Day
- G. Veteran's Day
- H. Thanksgiving Day
- I. The Friday immediately following Thanksgiving Day
- J. Christmas Day
- K. Two floating holidays per calendar year

If a holiday falls on Saturday, then the previous Friday is to be taken. If a holiday falls on Sunday, then the following Monday is to be taken.

Any employee who might be required to work on any of the above holidays shall be compensated at overtime rates in accordance with Overtime Sections in this Agreement. If a holiday falls on an employee's regular day off, he/she shall be entitled to equivalent time off at a later date.

If an employee is unable to schedule and take off the floating holidays within the calendar year, he/she shall be paid eight (8) hours compensation for floating holiday in November of that year. In each year during the month of October, Payroll will send a notice to any employee with floating holiday hour balances seeking confirmation of either usage or payout. It shall be the employee's responsibility to timely respond. Failure to do so will result in an automatic payout of the accrued time during the month of November of that year.

Employees who work less than full-time hours (exclusive of any seasonal, temporary or contracted work performed for the City) shall be eligible for holiday pay on a prorated basis. Such prorating shall be based upon part-time hours worked.

7.6. MILITARY LEAVE

Military leave shall be granted in accordance with the provisions of state law (Military and Veterans Code). All employees entitled to military leave shall give their department head and the City Manager a notice and opportunity, within the limits of military requirements, to determine when such leave shall be taken. If available, a copy of military orders received shall be delivered to the City prior to the taking of such leave. If not available, then upon return from military duty a copy of military release shall be given to the City.

The City agrees to amend its contract within the Public Employees Retirement System (PERS) Board to allow for a military retirement-credit for current employees. It is understood that there is no added cost to the City, and that the employee shall make all monetary contributions to PERS necessary to take advantage of the program. Should there arise a cost to the City as a result of this clause, then the clause is deemed null and void.

7.7. LEAVES OF ABSENCE

Department heads may grant a regular full-time employee leave of absence without pay or benefits related to employment for a period not to exceed one (1) calendar week. Such leaves shall be reported in writing to the City Manager.

Leaves of absence without pay or benefits related to employment for a period not to exceed three (3) consecutive months may be granted to regular full-time employees upon recommendation of the department head and approval of the City Manager. Following the initial three (3) months, the leave of absence may be extended for a maximum of an additional six (6) months if recommended by the department head with approval by the City Manager. However, no such leave shall be granted except upon written request of the employee, setting forth the reason(s), circumstances and length of the requested leave.

Upon expiration of an authorized leave of absence, the employee may be reinstated in the position held at the time leave was granted, provided, however, no other activity has occurred causing the position to no longer be available (e.g., layoff, closure or the elimination of services). Failure on the part of the employee on the authorized leave of absence to report for work promptly at the expiration of the leave shall be deemed abandonment of his/her employment and a waiver of any appeal rights within this MOU.

The granting of leave of absence without pay or benefits related to employment for any period exceeding one (1) full pay period shall result in setting of a new salary anniversary date for the employee. Such date shall be based on the employee's original salary date advanced by the number of calendar days leave in excess of one (1) full pay period.

7.8. MATERNITY LEAVE

A pregnant employee may continue employment as long as her health, the health of the unborn fetus, or the employee's ability to adequately perform prescribed job responsibilities would not be adversely affected by continued employment.

Applicable employees shall notify the department head in writing upon notice by their treating physician that such pregnancy exists, including the anticipated date of childbirth or other related medical conditions and their anticipated date of return to full duty. At any time during the pregnancy, the department head may require the employee to furnish medical evidence or information to support the employee's medical suitability for continued employment.

Maternity absences shall be granted only for medical reasons arising out of and in the course of a pregnancy, the subsequent childbirth, or other related medical conditions, as provided below:

The City shall comply with all State of California Family Rights Act (CFRA) (7297.0) and Federal Family Medical Act (FMLA) (825.100) regulations regarding individuals who are pregnant.

A pregnant employee may elect to use accrued vacation, compensatory time off, or any other earned form of paid absence from work in lieu of or in combination with, paid sick leave during the period of pregnancy related leave, the combination of which may not exceed normal full pay.

Eligible employees may be granted sick leave without pay, however, no such absence without pay shall be granted until the employee has exhausted all accumulated paid sick leave, as well as all other accumulated but unused paid leave time.

Use of paid leaves will be considered hours worked for purposes of computing overtime compensation.

7.9. SICK LEAVE BANKING

The City has established a leave donation program to enable employees to assist fellow employees who must be absent from work during a time of verifiable personal emergency by allowing employees to donate leave time, such as vacation, executive, compensatory and sick leave, to such employees who have or will exhaust their paid leave.

Any City employee may donate leave time to a needy employee, who is satisfactorily meeting job requirements. Donations must be made in 8 hour increments and are irreversible once made. The employee making the donation must retain a minimum of 100 hours of sick leave and 40 hours of vacation leave in their respective account after making a donation. Donations shall be converted on a dollar for dollar basis rather than on an hour basis, ensuring equal financial value on donations. Unless approved by the Human Resources Department, donations should not give the receiving employee more than 4 months accrued time.

The procedure for donating is as follows:

1. The Leave Donation Program will be managed by the Human Resources Department.
2. The Human Resources Department, after determining the employee's eligibility to receive donated time may approve the donated leave time.
3. The approved leave recipient (or their guardian if incapacitated) must consent in writing to have a donation program established.
4. The Human Resources Department will then work with the Payroll Section to coordinate the program.
5. The Human Resources Department will publicize the donation need, informing all employees of the process.
6. The Human Resources Department and the Payroll Section will ensure that donation information is kept confidential.
7. The Human Resources Department and the Payroll Section will assure that the amount of leave time donated does not exceed the amount allowed and that donations are not reversed.
8. The Payroll Section will assure that State and Federal Income Tax on the value of the leave donation is deducted from the recipient's pay at the time of usage.

7.10. VOTING TIME OFF

In accordance with the California Elections Code, Sections 14000 and 14401, if a registered voter who is a City employee does not have sufficient time outside regular working hours within which to vote at general direct primary or presidential primary elections, the employee may take off such working time as will, when added to his/her voting time outside his/her work hours, enable the employee to vote. The scheduling of the time referenced above shall be subject to approval of the department head or designee, and shall normally be at the beginning or end of the work shift. A maximum of two (2) hours may be taken with pay, when the employee provides proper and timely notice in accordance with California Elections Code Section 14000 et. seq.

7.11. USE OF ACCRUED LEAVE TOWARD RETIREMENT

Use of vacation, administrative leave, compensatory time off, or floating holiday(s) may be used to extend an employee's retirement date beyond the employee's last day worked. Sick leave may not be used to extend an employee's retirement date. Accrued sick leave may be used, however, in computing the employee's CalPERS retirement benefit.

8. ARTICLE 8 – INSURANCE

8.1. HEALTH CARE

Effective July 1, 2015, the City agrees to pay the following monthly contributions for active health care coverage (employee is responsible for remaining balance):

- A. Employee only: An amount equal to 80% of the Kaiser, Sacramento Region, premium rate for employee only.
- B. Employee plus one: An amount equal to 80% of the Kaiser, Sacramento Region, premium rate for employee plus one.
- C. Employee plus 2: An amount equal to 80% of the Kaiser, Sacramento Region, premium rate for employee plus two or more (family).
- D. Employees who select a health plan with higher monthly premiums than the maximum monthly premium paid by the City (items A-C above) shall pay the difference through payroll deduction taken out equally of two pay checks a month (taken from 24 pay checks each year). Should employees select a health plan with lower monthly premiums than the maximum premium contribution paid by the City, the City's contribution shall be limited to the cost of the monthly premium.

Regular part-time employees (exclusive of seasonal, temporary or contract workers) who work less than full-time hours shall have the benefit of prorated medical, dental and vision benefits. The proration shall be based on the number of hours worked. Regular part-time employees (exclusive of seasonal, temporary or contract workers), hired prior to July 1, 2012, shall continue to receive medical, dental, and vision benefits as currently provided.

The City will pay the full cost of dental premiums for employees and eligible dependents. The City will pay the full cost of vision premiums for employees only. Vision dependent coverage is the responsibility of the employee. Dental and vision care coverage shall be determined by the respective plan documents.

The employee waiving medical insurance coverage from the City of Lincoln shall receive a 66 $\frac{2}{3}$ % cash back monthly benefit payment of the Kaiser, Sacramento Region, employee only premium rate. This cash back (in lieu of Medical) benefit due to qualified employees shall be paid in a bi-weekly sum which will not be PERSable. An employee waiving the employee healthcare coverage must show evidence of insurance coverage.

8.2. LIFE INSURANCE

The City agrees to pay 100% of the premium rate for \$25,000 term life insurance policy that includes a double indemnity clause for employees covered by this Agreement.

8.3. RETIREE HEALTH BENEFIT

The City of Lincoln shall ensure the current health care benefit of one hundred percent (100%) cost of benefit for employees (and family members where applicable) hired prior to January 1, 1998, and who retire from the City of Lincoln, be maintained. Employees hired after January 1, 1998, and who retire from the City of Lincoln, shall vest in the life time retiree medical health benefits as provided in Government Code Section 22893.

9. ARTICLE 9 – RETIREMENT

9.1. RETIREMENT

The City currently provides three retirement formulas based on an employee's hire date and previous CalPERS service time.

- A. Tier 1 formula of 2.7% at 55 with the employee paying the entire employee portion of the retirement contribution currently at 8%. This only pertains to employees who were working for the City of Lincoln prior to 2011.

- B. Tier 2 has a formula of 2% at 60 with the employee paying the entire employee portion of the retirement contribution currently at 7%. This only pertains to employees who worked for the City of Lincoln from 2011 through 2012 or are considered a classic CalPERS member (left a CalPERS service agency within 6 months of working for the City of Lincoln).
- C. PEPRA has a formula of 2% at 62 with the employee paying the entire employee portion of the retirement contribution currently at 6.25%. This only pertains to employees who work for the City of Lincoln since 2013 and are not considered a classic CalPERS member.

As soon as administratively possible with PERS, but no sooner than July 1, 2015, employees within the Classified bargaining unit shall begin paying an additional three percent (3%) of the EMPLOYER'S contribution towards PERS in addition to what is noted in subsection (a) above. This payment shall be done on a pretax basis, in accordance with IRS Code 414 (h) (2).

9.2. SECOND TIER PERS RETIREMENT FOR NEW HIRES

The City will pay the employer's share of the PERS retirement formula and employees will pay the entire 7% / 8% employees share of the applicable PERS retirement formula for Miscellaneous Employees.

Any reference to EPMC in previously agreed upon documents shall be struck for the language.

Effective February 13, 2011, the City implemented a Tiered PERS retirement formula for all new hires. Current Miscellaneous Employees (hired prior to 2/13/11) will retain the PERS 2.7% @ 55 formula, and current Miscellaneous Employees (hired after 2/13/11) will retain the PERS 2% @ 60 formula. Employees laid off and reinstated within three (3) years of this agreement shall retain their original formulas.

10. ARTICLE 10 – GRIEVANCE

10.1. PURPOSE

The purpose of this grievance procedure is to:

- Resolve grievances informally at the lowest possible level;
- Provide an orderly procedure for reviewing and resolving grievances promptly;

10.2. GRIEVANCE PROCEDURE

The City and the Union agree to utilize the following grievance procedure:

- A. This grievance procedure shall be used to process and resolve grievances arising under this Collective Bargaining Agreement.
- B. Grievance time limits specified in each step of the grievance procedures shall be strictly observed and may only be extended by mutual agreement of the parties in writing. Failure of a grievant (or his/her authorized representative) to observe a grievance time limit shall terminate the grievance. Failure of a party to whom the grievance is submitted to observe the grievance time limits shall give the grievant (or his/her authorized representative) the right to move the grievance to the next appropriate level in the grievance process.
- C. No matter shall be considered as a grievance under this Collective Bargaining Agreement unless it is presented in writing within thirty (30) calendar days after occurrence of the events on which the grievance is based.
- D. The grievant shall have the right to appear in person on his/her behalf, with his/her authorized representative. However, only Stationary Engineers, Local 39, has access to this grievance procedure as an organization; and the Union Representative or designee shall have the authority to settle grievances for the Union or employees at any step in the grievance procedure.
- E. Definition of Grievance:
 - 1. A grievance is a dispute between the City and the Union involving the interpretation, application, or enforcement of the express terms of this Collective Bargaining Agreement.
 - 2. As used in this section, the term "supervisor" means the individual who assigns and directs the work of an employee.
 - 3. As used in this section, the term "party" means an employee, the Union, the City or their respective authorized representative(s).
 - 4. The employee retains all rights conferred by Government Code Sections 3500 et. seq. or regulations of the City unless waived by such employee.

10.3. PRELIMINARY INFORMAL PROCEDURE

All persons having a grievance shall make every effort to resolve such grievance by first discussing the matter with his/her immediate supervisor prior to submission of a formal grievance. If no resolution is reached with the supervisor, the employee shall request an informal meeting with the Department Head or designee prior to utilizing the formal grievance process.

10.4. FORMAL GRIEVANCE PROCEDURE

- A. Step One – If after discussions with the immediate supervisor, the employee does not feel the grievance has been properly addressed, the grievance shall be reduced to writing. The grievance statement shall include the following information:

1. A statement of the grievance clearly indicating the question raised by the grievance and the article(s) and section(s) of this Collective Bargaining Agreement.
2. The remedy or correction requested by the aggrieved party.

The grieving party's Department Head or designee shall respond to the grievance in writing within ten (10) working days of receipt of the grievance.

The grievance response shall include the following:

1. A complete statement of the City's position and the facts upon which the statement is based.
 2. The remedy or correction which has been offered by the City, if any.
- B. Step Two – If a mutual satisfactory solution has not been reached at the first step, the grievant has ten (10) working days to submit the grievance to the City Manager. The Union representative and the City Manager will meet in an effort to settle the matter. The City Manager's answer to the grievance shall be communicated to the grievant within (10) working days after said meeting is held.
- C. Step Three – An appeal may be referred to mediation if the grievant is not satisfied with the dispositions of the City Manager's review step of the grievance procedure. If both parties agree in writing, the mediation process may be waived. The grievant must notify the City in writing within ten (10) working days of the notice of the City Manager's decision of grievant's request to refer the matter to mediation. The City shall respond to the grievant within ten (10) working days and proceed to schedule a mediation hearing with the California State Mediation and Conciliation Service.

Mediation conference(s) shall take place at a mutually convenient time and location, and shall not be open to parties other than those who are direct parties to the grievance.

Proceedings before the mediator shall be confidential, informal in nature and shall not be admissible in any subsequent hearing (arbitration or otherwise). No transcript or record of the mediation conference shall be made. In the event a resolution is reached, the parties may stipulate the unresolved issues in writing and submit them for arbitration.

D. Step Four – Within ten (10) working days of the conclusion of the mediation process, or if the mediation process is not utilized, then within ten (10) days of receipt of the City Manager's decision pursuant to step two of the grievance process, the Union may request arbitration.

1. An arbitrator may be selected by mutual agreement between the City and the Union.
2. Should the representatives fail to mutually agree on an arbitrator they shall make a joint request to the State Mediation and Conciliation Service for a list of five (5) qualified arbitrators, the parties shall each strike two (2) names from the list and the remaining person shall be accepted as the arbitrator. The first party to strike will be determined by the flip of a coin.
3. The selected arbitrator shall conduct the hearing and report findings, conclusion and recommendations to the City Manager. All parties to the Collective Bargaining Agreement shall endeavor to adhere to the Arbitrator's final decision. It is understood that the arbitrator shall only interpret this Collective Bargaining Agreement and will in no instance add to, delete from or amend any part thereof.
4. The parties to the grievance shall share equally in the cost of the arbitration, including but not limited to the arbitrator, witnesses and recordings.

11. ARTICLE 11 – DISCIPLINARY REVIEW PROCEDURE

11.1. NOTICE OF PROPOSED DISCIPLINE

The Department Head shall, prior to taking disciplinary action to demote (except for demotion in lieu of layoff), discharge or suspend without pay for one (1) work day or more a regular employee, provide the employee with a written notice of proposed disciplinary action which shall contain the charges and the specific factual basis for the charges and the nature of the proposed disciplinary action. Said notice shall inform the employee of his/her right to respond to the charges.

11.2. RESPONSE

The employee shall have the right to respond to the charges set forth in the Notice of Proposed Discipline, orally or in writing, within five (5) work days of receipt to said notice. Any written response shall be delivered to the office of the City Manager or designee within the time allowed. If the employee desires to respond orally, the employee shall make an appointment with the City Manager or designee for a response meeting within the time allowed. The employee may bring a representative of his/her choice to a response meeting.

A letter of reprimand shall not be appealable to the City Manager, except the employee may have an administrative review of the reprimand by submitting a request in writing within five (5) calendar days to the human resources department. The Human Resources Director or designee will schedule a private meeting within five (5) calendar days of receipt of the written request to hear the employee's response. A final written decision will be rendered by the Director or designee within five (5) calendar days of the meeting. This section shall not be subject to the grievance procedure.

11.3. DISCIPLINE ACTION

After the employee's response is received or, if no response is received, after the five (5) work day period expires, the City Manager or designee shall determine whether to proceed with the proposed disciplinary action and notify the employee in writing.

11.4. 1.4. NOTICE OF DISCIPLINE ACTION

If the City Manager or designee decides to proceed with the disciplinary action, a Notice of Disciplinary Action shall be sent to the employee by mail. Said notice shall contain the charges, the factual basis for the charges, the disciplinary action which shall not be earlier than five (5) work days after the notice of proposed disciplinary action is sent to the employee. This notice shall inform the employee of the right to appeal the action.

11.5. 1.5. APPEAL

In cases of discharge, demotion (except for demotion in lieu of layoff) and suspension without pay for five (5) work days or more, the employee may appeal the disciplinary action by filing a Notice of Appeal containing a detailed statement of the grounds for appeal with the City Manager or designee within five (5) work days of receipt of Notice of Disciplinary Action. In cases of suspension without pay for one (1) work day or more but less than five (5) work days, the employee may file a formal grievance with the City Manager within five (5) work days of receipt of Notice of Disciplinary action.

By mutual agreement between the appointing authority or designee and the employee, an employee suspended from duty of five (5) work days or less without pay may forfeit accumulated holiday, compensatory time off, and/or vacation accruals equal to the number of hours of suspension in lieu of such suspension. This provision shall not be subject to the grievance process. Even though the employee is no longer taking the suspended time off and giving their accrued leave in lieu of suspension, this section shall not in any way change the City's recording of the suspension.

11.6. ARBITRATION HEARING PROCESS

If after consideration of the employee's appeal of and response to the disciplinary action, the City Manager or designee affirms the penalty imposed. The employee may appeal the decision of the City Manager to an arbitrator pursuant to this section. The appeal of the City Manager's decision must be made within five (5) work days of the issuance of the City Manager's decision to the employee. The date of issuance shall be calculated from the date of the postmark and the City Manager's decision to be sent to the employee at his/her home address. Within ten (10) work days of the City Manager's decision, the parties must select an arbitrator. If the parties cannot mutually agree upon an arbitrator, the arbitrator shall be selected from a list provided by the California State Mediation and Conciliation Service (CSMS). The CSMS list shall contain five (5) names of labor relations neutrals, and the parties shall alternately strike names from the list. The first strike shall be determined by lot. The last name remaining on the list shall be the arbitrator.

The parties to this Agreement shall share equally the cost of the arbitration.

The arbitrator will operate under the rules of proceeding of the American Arbitration Association unless such rules are in conflict with this Memorandum of Understanding.

The arbitrator shall have no authority to add to, delete, modify, change, reconstruct or ignore this Memorandum of Understanding, City Policies, Rules and Regulations. Moreover, the arbitrator shall not have the authority to waive any time limits under this procedure; only the parties may do so by mutual Agreement in writing. The decision of the arbitrator shall be final, binding and conclusive on all parties.

The appeal hearing before the arbitrator shall be conducted as a full evidentiary hearing with the right to represent witnesses in evidence, cross-examine opposing witnesses, representation by counsel, and findings to support the decision. Said hearings shall be conducted in closed session. The City shall not be held to the evidentiary standard applied in criminal matters of proof beyond a reasonable doubt.

11.7. SUSPENSION PENDING ACTION

The City Manager shall have the power to suspend the employee, with or without pay, during the period between the date the notice of proposed disciplinary action is sent and the date the disciplinary action becomes effective. The employee shall be reimbursed for any loss of pay or benefits incurred during this period and seniority shall not be negatively affected, should the disciplinary action be overturned or modified accordingly.

11.8. PROBATIONARY EMPLOYEES

A new employee shall serve a 12-month probationary period during which he/she may be terminated from employment with the City without cause. Employees shall not be entitled to notice or hearing in the event they are terminated.

Employees who are on probationary status shall receive a notice of rejection during probation five (5) work days prior to the imposition of the rejection.

An employee who has previously completed a requisite probationary period in his/her prior position and who is rejected during a subsequent probationary period for a promotional appointment shall be reinstated to the former position from which the employee was appointed. If the employee was terminated for cause from employment during the promotional probationary period, the employee shall not be entitled to such reinstatement rights.

11.9. LIMITATION ON APPLICATION

This section shall not apply to suspensions without pay of less than five (5) work days, demotions in lieu of layoff, or any disciplinary actions not previously listed above. Employees shall be entitled to grieve disciplinary actions not covered by this section through the grievance procedure set forth in Article VIII of the Memorandum only; provided, however, that in the case of suspension of one (1) work day or more but less than five (5) work days, the City shall comply with this Article.

11.10. PERSONNEL FILE ACCESS

The employee shall have access to his/her personnel file with adequate notice to the Human Resources Department. An employee may request a copy of any item within his/her personnel file that was signed by the employee. The copies are to be made by the human resources staff and not by the requesting employee. In addition, employees have the right to attach a written response to any document in their personnel file.

Parties to this Agreement recognize the confidential nature of the employees' personnel file(s). The City agrees to limit access to an employee's personnel file to regular employees, who by their position have a legitimate reason to review said files.

An employee may petition to have a written reprimand removed from his/her personnel file after two (2) years, and may petition to have a suspension of less than five (5) work days removed after five (5) years. The City shall only consider removing the written reprimand and/or the suspension of less than five (5) work days if the disciplinary action had been noted in the employee's performance evaluation. Also, the City shall consider the removal of these disciplinary actions only if no subsequent disciplinary action has been taken against the employee since the date of the original action. However, removal of a disciplinary action from an employee's personnel file shall not bar the City from citing such action as evidence in any future disciplinary actions against the employee.

12. ARTICLE 12 – CLASSIFICATION

12.1. CLASSIFICATION

The City shall determine the need for and number of positions and classifications necessary to perform services as determined by the City Council. All such bargaining unit positions shall be placed in the City's classification plan.

New positions may be authorized by the City Council and added to the City's classification plan. However, no new position may be filled without the authorization of the City Manager, who, in so doing, shall determine that sufficient funds are available by way of financial review prior to any recruitment commencing. When a new position is created, the department head must obtain the City Manager's approval to fill the position. The City Manager or designee shall then notify the department head as to the approval and method of filling said position.

Except as provided by these rules, or otherwise, no person shall be appointed or employed to fill any new permanent part-time positions or regular full-time positions until the Classification Plan has been amended by the City Council.

Prior to submission to the City Council, the Union shall be provided a copy of the proposed classification and be given the opportunity to meet and confer regarding any impact on current employees covered under this Agreement.

12.2. RECLASSIFICATION

Positions whose duties and responsibilities have changed so as to depart significantly from an assigned class description or position which have been structurally affected by organizational changes may be authorized by the City manager for reclassification study. Such requests for study may be initiated by the City Manager whether generated by him/herself or through the direction from City Council. Upon approval of a reclassification study, the person studying the position shall

in the course of such study consult with the affected employee, the employee's supervisor and department head, and gather any other information pertinent to issues related to the study. Upon the completion of the study, a report of the analysis and findings shall be submitted and recommendations made to the City Manager who shall consult with the appropriate department head and determine the disposition of the study. Recommendations on such study results may be submitted to the Personnel Committee for approval of reclassification and any related compensation issues.

Should such reclassification study involve the creation of a new classification, the study results may be approved or rejected by the Personnel Committee and the Council.

Prior to submission to the City Council, the Union shall be provided a copy of the proposed reclassification and be given the opportunity to meet and confer regarding any impact on current employees covered under this Agreement.

Upon reclassification of a position to a class which has a higher salary range than the previous class, the City Manager shall determine whether the incumbent meets the requirements of the new class. If the incumbent does not meet requirements of the new class, the City Manager shall determine the method and means of filling the position.

12.3. TEMPORARY WORK IN A HIGHER CLASSIFICATION

Temporary assignments to higher classifications shall be permitted only in those classifications where in the judgment of the Department Head or designee, and it is found to be necessary to maintain proper and efficient departmental operations. An employee specifically assigned in writing to perform the duties of a higher classification for greater than three (3) consecutive working days, shall be compensated for the duration of the out-of-classification assignment by five percent (5%) above their current base pay or the salary provided for in Step "1" of the higher classification, whichever is greater, but not to exceed Step "7" of the higher classification. After three consecutive days, compensation for out-of-classification work will be retroactively applied to the first day of the qualifying out-of-classification event.

The City recognizes that temporary work in a higher classification shall not be used as a device for circumventing promotional opportunities.

Out of classification assignments in excess of six (6) months must be reviewed by the City Human Resources Manager or designee. The City Manager must give approval for the out of classification assignment to continue.

13. ARTICLE 13 – TRANSFER AND PROMOTION

13.1. FILLING OF VACANT POSITIONS

All vacant positions shall be posted on each departmental bulletin board and on the City's e-mail system for the period of time that applications are being accepted. Interested current employees who meet the minimum qualifications will be examined and if they pass the examination, will be interviewed for the position. If all qualifications are met, the City shall endeavor to fill vacant positions from in-house.

13.2. WORKSITE AND SHIFT TRANSFER

The City reserves the right to transfer employees in accordance with the needs of the City.

No bargaining unit employee shall be transferred as a punitive measure.

No bargaining unit employee shall be permanently transferred between worksites without ten (10) days prior written notice.

No bargaining unit employee shall be temporarily transferred without notice at least one day prior to said transfer, except in case of emergency.

Temporary worksite transfers shall be for a period not to exceed thirty (30) working days.

13.3. VOLUNTARY POSITION TRANSFER

Voluntary position transfer for this section shall mean a change of employment from one position to another in the same classification in the same or different department.

When the City decides to fill a vacancy as defined below, employees holding permanent full-time status in their classification, may request in writing to be reassigned should a position or shift assignment become vacant in their classification. For a request to be given consideration under this section, it must be filed in accordance with paragraph b. Permanent status for purposes of this section shall mean an individual who has successfully passed his/her probationary period in the class.

The City shall notice employees of openings created by vacancy within their classification. Permanent employees who wish to submit a reassignment request to the notice may do so.

The employee requesting the reassignment, or in the case of multiple requests for the same position, the employee with the greatest amount of continuous work location seniority in the class shall be selected over other employees. A vacancy shall be deemed to exist when a position is unoccupied as a result of retirement, transfer, termination, reassignment or new funding.

The City agrees that it is desirable to offer transfer opportunities to qualified applicants from within the bargaining unit.

The City shall provide the Union with recruitment notices.

13.4. PROMOTION

Employees in the bargaining unit shall be considered for job vacancies within the bargaining unit which can be considered a promotion, providing they stand within the group included on the certification list for final consideration and are qualified by virtue of successful examination.

Employees must file a city employment application form for such vacancy within the specified filing period.

A notice of job vacancy shall be provided to the Union.

The city agrees that it is desirable to offer promotional opportunities to qualified applicants from within the bargaining unit.

An employee who applies for and is appointed to another position within the City shall have the right to return to his/her former position or to a comparable position if the former no longer exists. Such right shall exist for positions within and without the bargaining unit. The right of return shall be exercised prior to or within three (3) days of a notice of rejection of probation, and only during the six (6) month probationary period.

In no event shall any employee be subject to the loss of his/her employment from the City for not successfully completing a probationary period.

The parties agree that qualified Maintenance Worker I, Water Tech I, WW Tech I, and Equip Mechanic I personnel will be advanced to the Maintenance Worker II, Water Tech II, WW Tech II, and Equip Mechanic II in order of current overall seniority based on date of hire, prior to the end of the 2012/2013 Fiscal Year, or until all eligible for advancement have advanced.

To be eligible for advancement the employee shall have "meets standards evaluation" (Rating of Good or Higher) on file and meet the minimum qualifications for the respective II position.

14. ARTICLE 14 – SAFETY AND TRAINING

14.1. SAFE CONDITIONS, EQUIPMENT AND DUTIES

The City is committed to maintaining a safe workplace and to comply with applicable laws and regulations governing safety. The City and its employees agree to maintain a safe and healthful place of work and to maintain safety as well as sanitary conditions in accordance with all applicable state laws. Unsafe working conditions or hazardous jobs which jeopardize the health and safety of the employees shall be directed to the attention of the City. The City shall investigate the complaint and make any and all corrective measures as deemed necessary by the City. The employees and the Union shall cooperate fully in carrying out safe practices and in using safety devices provided by the City.

The City shall provide all needed safety equipment and/or training for the employee(s) to perform the normal tasks of their respective classification(s). These devices and equipment shall be customary safety appliances to safeguard the employees against danger to health, life and limb. The City will make available to the employees updated training programs on safety matters and issues as it deems necessary. Such training will be provided as the City deems necessary. Employees agree that the duties and tasks performed by them shall be performed in a safe and healthful manner.

Effective July 1, 2015, the \$350.00 previously designated for appropriate footwear shall be credited on an account for each bargaining unit employee to purchase appropriate footwear from a boot vendor.

14.2. TRAINING

Employees interested in professional training shall submit written requests through their immediate supervisor. Such requests shall be reviewed by the supervisor with recommendations to the department head. Funding for the training shall be subject to available funds within the department budget, or if necessary and possible, through approved budget adjustments.

The City shall pay to reimburse employees for all approved special training, licenses, and certificates, including renewals, so long as the employee successfully completes all phases of the training, license, and certification including passing required examinations.

Trainings and testings should be scheduled during the employee's normal work day, whenever possible.

When required and approved training and testing cannot be scheduled during the employee's normal work day/hours, the employee's time shall be compensated accordingly.

The City will provide necessary equipment and/or tools necessary for training and/or testing, providing the training is required and approved by the supervisor.

14.3. TUITION REIMBURSEMENT

Pre-approval of tuition reimbursement must be obtained from the employee's supervisor and department head prior to starting the class. Tuition reimbursement is considered to be exhausted in the calendar year in which it is paid to the employee.

14.4. EDUCATION ROLLED INTO BASE PAY

The parties agree to incorporate the educational pays that current employees have earned into a new salary schedule. This salary schedule will only pertain to the current employees (as of July 1, 2012); and any new employee to the bargaining unit will be compensated based on a newly developed salary schedule.

Current employees will be compensated at the step (level) that includes their current base pay and their educational pays. An employee's step may change during this process, but the base pay should not decrease due to this specific activity.

The educational pays will no longer be paid to employees as of the date of this MOU.

15. ARTICLE 15 – REDUCTION IN FORCE

15.1. RESIGNATION

An employee wishing to leave the classified service in good standing shall file a written resignation with the department head at least two (2) weeks before leaving the service, stating the effective date and reasons for leaving. The resignation shall be forwarded to the City Manager with a statement by the department head as to the resigning employee's service performance and other pertinent information concerning the cause for resignation. Failure of the employee to give the required notice shall be entered on the service record of the employee and may be cause for denial of future employment with the City. The resignation of an employee who fails to give notice shall be reported immediately by the department head to the City Manager.

When a Friday is observed as a designated holiday for applicable employees, the resigning employee shall be paid for such Friday, provided the employee works at least one (1) day following the holiday prior to service separation.

15.2. LAYOFF

A. Non-Discrimination in Work Force Reduction

Layoffs and demotions which result from a reduction in force shall be made without regard to an employee's race, color, creed, national origin, religion, sex, age, or physical handicap.

B. Layoff Plan

The City Manager, in consultation with the City Council, shall determine the area(s) and position(s) in which layoffs may occur, including the identification of the department, division, work unit, class, and specific position. When a list of the affected areas and/or positions has been prepared, a copy shall be submitted to all affected and recognized employee organizations, and these regulations shall prevail as to the method and manner for implementing such layoffs. Layoffs of employees shall be on a city-wide, classification basis.

Employees holding temporary, seasonal, part-time, probationary, or provisional appointments shall be laid off first. Employees serving in a regular part-time position shall be laid off second. Employees in classified service who have completed probation (i.e. regular classified employees) shall be laid off last.

Should it become necessary to layoff regular classified employees, the person(s) laid off shall be those with the least service credit within an identified position in the affected department. If two (2) or more employees in this circumstance possess essentially the same amount of service credit, the City Manager shall determine which person shall be laid off on the basis of efficiency and effectiveness.

C. Layoff Notification

The City Manager shall give notice personally or in writing to the last known address to each employee affected by a layoff at least fifteen (15) working days prior to the effective date of such action. The notice shall include:

1. The reason(s) for layoff;
2. Classes or positions to which the employees may transfer or demote within the department, if any;
3. Effective date of the action;
4. Rules regarding waiver of reinstatement and voluntary withdrawal from the reinstatement list; and
5. Appeal right of the employee, excluding layoff resulting from abolition of the position.

D. Reduction in Force

Except in those instances where senior employees are not qualified to perform the remaining work duties seniority shall determine the order of layoff, which shall be in inverse order of

seniority within each work classification, provided that any employee who is to be laid off and has previously served in a lower classification covered by this Agreement, may exercise seniority rights to such a lower classification. Final determination of qualifications to perform remaining work duties shall be made by the City Manager, after discussion with the Union, and shall be a determining factor in allowing the displacement of a junior employee; however, where all factors considered are equal between employees, retention shall be on the basis of seniority.

In those instances where an affected employee has not previously served in a lower classification and has more years of service to the City than those less senior employees in the lower classification, shall be placed in the said lower classification and shall be subject to the appropriate probationary period. If he/she does not successfully complete the probationary period, such failure results in a rejection of probation. The rejection of probation is not grievable.

E. Layoff of Bumped Employee

The employee laid off as a result of a displaced employee's reversion to a lower classification shall receive written notice of layoff not less than ten (10) calendar days prior to the effective date of the layoff.

The names of regular full-time classified employees who have been laid off due to reduction in force shall be placed on an appropriate reinstatement list according to the date of separation on the following basis; last employee laid off is the first employee on the list with other employees eligible in sequential order thereafter. Such list shall be used by the appointing authority when a vacancy for that class is to be filled before certification of any other employment list.

F. Reinstatement Lists

The eligibility of individuals on Reinstatement Lists shall extend for a period of one (1) year from the date of layoff. Individuals not responding to written notification of an opening within five (5) working days shall have their names removed from the Reinstatement Lists.

G. Notice of Recall from Layoff

Notice shall be given by Return Receipt Requested Mail and shall specify the date for reporting to work, which shall be not more than twenty-one (21) days from the date the notice is received. Notice shall be deemed to have been received when sent to the last known address on file with the City, and attempted delivery or actual delivery is certified by the Postal Service. Upon receiving notice, the person on layoff shall have five (5) days to accept or decline the recall opportunity.

An employee who fails to respond to writing within five (5) days, refuses recall, or fails to report on the prescribed date within the twenty-one (21) days maximum, thereby waives all further right to recall and reinstatement as an employee. When recall is declined, the City will proceed to the next person on the reinstatement list and follow the same notice and response procedure. This process will continue through the list until recall needs are met or until the list is exhausted. Reinstated persons shall receive the following upon return to service:

1. Retention of regular full-time service length accrued as of date of layoff.
2. The salary for the classification in effect as of the date of return, at the same step level as the date of layoff, not to exceed the top step.
3. The accrual rate of vacation and sick leave in effect for the employee's service length and class at the time of rehire, but insurance contributions shall be at the level of a new employee. All other benefits and programs shall be consistent with those provided to new hires.

H. Resignation In Lieu of Recall

An employee who elects to resign in lieu of layoff or while laid off shall forfeit all rights to reinstatement, and shall be entitled only to those rights under normal separation of service.

16. ARTICLE 16 – MISCELLANEOUS

16.1. DUES

The City agrees to establish payroll deductions for the normal and regular monthly Union membership dues, initiation fees and assessments. All the above payroll deductions shall be subject to the following conditions:

- A. Such deductions shall be made pursuant to the terms and conditions set forth in authorization forms approved by the City. Such forms shall be those which are currently used. Any changes or modifications shall be agreed upon between the City and Union.
- B. Deductions and authorizations shall be separated by type of deduction (Union membership dues and initiation fees) and by payee.
- C. Such deductions shall be made only upon submission to Human Resources, of the said authorization form duly completed and executed by the employee and the Union.
- D. The Union will be responsible for notifying the Human Resources Manager of any changes in the amounts to be payroll deducted from the paychecks of employees who have authorization forms on file with the City. Such notification shall be in the form of a letter

signed by the authorized representative of the Union certifying a change in dues or initiation fees.

- E. The Union agrees to indemnify, defend and hold the City harmless against any claims made of any nature whatsoever, and against any suit instituted against the City arising from its deductions for dues or initiation fees.
- F. The City will remit to the Union for each pay period a check for all of the deductions.

16.2. FULL UNDERSTANDING, MODIFICATION, WAIVER

The parties jointly represented to the City Council that this Memorandum of Understanding sets forth the full and entire understanding of the parties regarding the matters set forth herein.

Except as specifically otherwise provided herein, it is agreed and understood that each party hereto voluntarily and unqualifiedly waives its rights and agrees that the other shall not be required to meet and confer with respect to any subject or matter covered herein, nor as to wages or fringe benefits during the period of the term of this Memorandum. The foregoing shall not preclude the parties hereto from meeting and conferring at any time during the term of this Agreement with respect to any subject matter within the scope of the meeting and conferring for a proposed Memorandum of Understanding between the parties.

16.3. SEPARABILITY OF PROVISIONS

Should any provision of the Memorandum of Understanding be declared illegal by final judgment of a court of competent jurisdiction, such invalidations of such provisions shall not invalidate the remaining portions thereof; and such remaining portions shall remain in full force and effect for the duration of the Memorandum of Understanding.

16.4. NO STRIKE CLAUSE


During the term of this Agreement, neither the Union nor its agents, for any reason, will authorize, institute, and condone or engage in a work closedown, work stoppage, strike or any other interference with the work and statutory functions of obligations of the City.

16.5. NO LOCKOUT


No lock out of employees shall be instituted by the City during the term of this Agreement.

This memorandum of understanding is hereby executed this ____ day of _____, 2019, by the Employer-Employee Representatives whose signatures appear below on behalf of their respective organizations.

FOR THE CITY:



Paul Joiner
Mayor

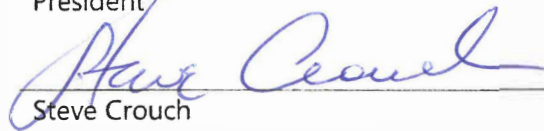

Jennifer Hanson
City Manager



Kristine Mollenkopf
City Attorney
(As to form)

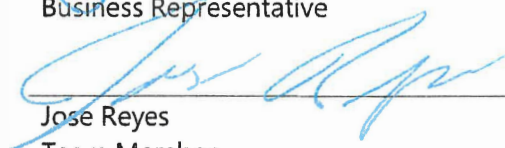
FOR IUOE, LOCAL 39:

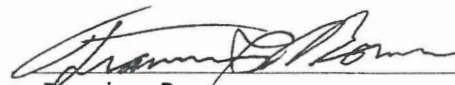

Bart Florence
Business Manager

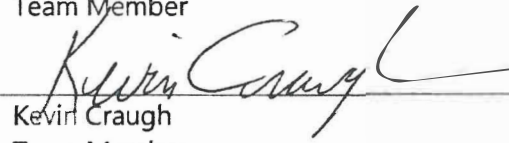

Bob Aldridge
President


Steve Crouch
Director of Public Employees


James Britton
Business Representative


Jose Reyes
Team Member


Francisco Bonar
Team Member


Kevin Craugh
Team Member